

NTIA Response to CSMAC Working Group Reply Recommendations
Reply to March 1, 2012 NTIA Response
Spectrum Management Improvements Part 2
September 11, 2012

Recommendation	Report Page	NTIA Response	NTIA Explanation
<p>1. The Working Group agrees that NTIA should prioritize the bands subjected to the one-time data accuracy and clean-up effort. Accordingly, the Working Group recommends that NTIA initially focus the data accuracy and clean-up effort on the fast-track and priority spectrum bands currently under review for near-term repurposing to wireless broadband use. These bands include: 1675-1710 MHz, 1755-1850 MHz, 3500-3650 MHz, 4200-4220 MHz, and 4380-4400 MHz. Thereafter, NTIA should focus on the remaining candidate bands it has identified for repurposing. The data accuracy and clean-up effort should focus on those data fields needed to form a complete data set sufficient for spectrum planning, as identified in the Second Report of the Working Group presented on March 1, 2012. The Working Group also recommends that NTIA automate the process to find and correct errors, and consider outsourcing the entire effort to companies specializing in development and maintenance of spectrum management databases.</p> <p>With regard to funding, the Working Group recommends that NTIA seek the judgment of the Office of the Chief Counsel (“OCC”) that costs incurred by Federal agencies in connection with this effort are subject to reimbursement from the Spectrum Relocation Fund, pursuant to the Middle Class Tax Relief and Job Creation Act of 2012 (“Jobs Act”) amendments to the funding provisions of the Commercial Spectrum Enhancement Act (“CSEA”). Among other things, the Jobs Act amendments</p>		Agree	<p>Based on the availability of funding, NTIA will consider which bands should be reviewed for data accuracy and clean-up effort. We agree that the bands identified in the recommendation are high on the priority list.</p> <p>NTIA will discuss with our Office of the Chief Counsel and the Office of Management and Budget whether NTIA costs incurred for data clean-up in bands to be reallocated qualifies for reimbursement from the Spectrum Relocation Fund, pursuant to the Middle Class Tax Relief and Job Creation Act of 2012 (“Jobs Act”) amendments to the funding provisions of the Commercial Spectrum Enhancement Act (“CSEA”).</p> <p>NTIA now requires the identification of an individual who is the individual responsible for the data related to each submitted assignment.</p> <p>NTIA is continually adding computer checks to GMF application process to identify errors. Implementation of the FSMS will also improve data accuracy through increased data checks and references to other equipment databases.</p>

provide NTIA with a vehicle for funding agency spectrum planning prior to auction. Specifically, Federal agencies are entitled to compensation from the Spectrum Relocation Fund (“SRF”) for “relocation or sharing costs” incurred because of planning for the reallocation of spectrum from Federal to non-Federal or shared use to be assigned by auction. “Relocation or sharing costs” include costs incurred by Federal agencies that are “attributable” to relocation or sharing, as well as the costs of research or other expenses incurred in connection with planning for a relocation or sharing agreement. Planning costs are subject to reimbursement at any time, including prior to a scheduled auction.

Here, costs incurred in connection with the one-time data accuracy and clean-up effort for the fast track/priority bands targeted for repurposing appear to fall within the relocation and sharing planning costs that are now reimbursable under the statute. That is, agencies must be able to identify current Federal spectrum uses to plan for relocation or sharing, which in turn depends on good underlying spectrum data. As the Government Accountability Office (“GAO”) has found:

As experienced in previous relocations, inaccurate and incomplete data submitted by agencies can impact the transition time from federal to commercial use once reallocated spectrum has been auctioned by FCC and purchased by commercial users....

The fix, according to GAO, is to provide “adequate and timely funding for agencies to conduct research and planning,” including “data collection and band analysis.” NTIA should thus seek the judgment of OCC that the Jobs Act amendments did just that: provide agencies with funding for costs attributable to relocation or sharing, including costs to perform the one-time data accuracy and clean-up effort based initially on the fast-track and priority bands.

<p>If SRF funding is not available and NTIA is not capable of pursuing a system-wide data accuracy assessment and clean-up effort due to budget issues, then the Working Group recommends that licensing and operational verification processes be instituted that will serve the same objective over a period of time. These processes are described in the following section.</p>			
<p>2. NTIA’s task of determining the continued operational characteristics of wireless communication systems using Federal Government spectrum is handicapped at the outset, as authorizations are apparently issued without expiration dates or without requirements to report back to NTIA on dates of installation, continuing operations, system modifications, or system terminations. By comparison, the FCC’s processes include many such user reporting obligations, which facilitates maintaining an accurate database. Processes implemented by the FCC that facilitate database maintenance include the following:</p> <ul style="list-style-type: none"> □ Specified License Terms—Non-Federal government licenses are normally issued for a specified license term, and licensees must file an application to renew their license prior to the end of the license term. In addition to other requirements discussed below to keep license data current, the filing of renewal applications at a minimum ensures a regular cycle for licensees to review and update license information. While license terms vary, ten years is typical—although some argue that five-years is optimal, as normally during a ten-year license period there is a significant opportunity for both administrative and technical changes to occur that may not be reported. □ Performance/Build-out Requirements—Licensees who acquire spectrum through competitive bidding processes are required to meet either geographic or population coverage thresholds at specific intervals, e.g., after five, seven, or ten years. Failure to meet these minimum requirements may result in reductions to either permitted geographical coverage 		<p>Agree</p>	<p>NTIA will consider each of the approaches attributed in the CSMAC recommendation as FCC processes. NTIA currently requires review of GMF records every 5 years. This would seem to cover construction and buildout periods. Implementation of a license period for many federal systems could be ten years or more for many federal systems in order to provide them the assurance of spectrum availability for their long range planning. Agencies are already required to report if they change they change or eliminate their operation and many assignment actions are actually modifications to existing assignments. Increased levels of reporting would require additional resources within the agencies and at NTIA to ensure timely and correct submission and review.</p> <p>NTIA has implemented additional data requirements in the application process, including that each new application have an individual identified who has attested to the accuracy of the data. The Frequency Assignment Subcommittee of the IRAC is reviewing additional processes that would lead to more accurate up-to-date data.</p> <p>NTIA agrees that database accuracy and ongoing verification processes should be incorporated within the FSMS conversion effort.</p>

and/or authorized spectrum capacity or other sanctions. These rules help ensure that spectrum assignments identified in FCC databases are utilized and do not become stale.

Construction Notification—Site-specific licensees are required to provide the FCC with written notice that the licensed system has been constructed and is operational within a fixed period of time after license grant (e.g., one year or 18 months). Failure to provide this notification may result in license termination. Like the performance requirements applicable to auctioned spectrum, these site-specific construction notification rules help ensure that spectrum assignments identified in FCC databases are utilized and do not become stale.

Secondary Market Rules—FCC secondary market rules require licensees to file applications or notifications with the FCC to assign, transfer, lease, partition and/or disaggregate licensed spectrum, or face sanctions. These rules and the threat of sanctions are another tool to ensure that spectrum assignments are accurately tracked in FCC databases.

Notification of Technical/Administrative Changes—Certain technical and/or administrative changes to station licenses require prior FCC approval or follow-up FCC notification, which again helps to ensure the FCC license data remains current.

Data Accuracy Certification—FCC applications require applicants to certify that information contained in applications is “true, complete, correct, and made in good faith.” Because information in FCC databases is initially derived from applicant-provided data, this certification helps ensure that applicant-provided data is accurate.

Keep Current Obligation—Section 1.65 of the FCC’s rules requires applicants to keep their license applications “substantially accurate and complete” while they are pending at

<p>the Commission, and to file updates within 30 days as needed to reflect changes. This “keep current” rule helps ensure that applicant-provided data remains accurate upon grant.</p> <p><input type="checkbox"/> Discontinuance of Station Operations—The FCC requires licensees to report when station operations are permanently discontinued. What constitutes permanent discontinuance varies by service (e.g., in some services, any station that has not operated for one year or more is considered to have been permanently discontinued). This reporting requirement helps ensure that spectrum that is taken out of service is removed from FCC databases.</p> <p><input type="checkbox"/> Audits—The FCC has in the past conducted audits of certain radio services to verify system operations. In such cases, licensees receive certified notifications and were requested to respond to questions concerning system operations, providing another vehicle to keep license data current—especially where there is a particular concern that data for a certain service is not accurate. Indeed, as a result of prior audit successes, the FCC has developed license audit software that is integrated with its Universal Licensing System (“ULS”), making the audit process easier for all parties involved.</p> <p>Establishing similar goals and metrics for data accuracy going forward on the Federal side should be a priority for all Federal spectrum bands, other than perhaps those established for unlicensed uses.</p> <p>Regarding NTIA’s second request, the Working Group is not sufficiently familiar with the workings of the FSMS at this juncture. As a matter of principle, however, database accuracy and ongoing verification processes should be incorporated within the FSMS conversion effort applying processes similar to those noted above.</p>			
<p>3. At the time the Working Group initially made this recommendation in November 2011, the Jobs Act had not yet</p>		<p>Agree</p>	<p>Since NTIA can charge agencies fees based solely on the cost of service NTIA provides (interpreted as the budget of</p>

<p>passed and become law. As discussed above, NTIA should seek the judgment of the OCC that costs incurred by Federal agencies in connection with the data accuracy review and clean-up effort are now subject to reimbursement from the SRF, pursuant to Jobs Act amendments to CSEA. Alternatively, NTIA can address these costs by increasing the frequency assignment fees charged to agencies. It is the understanding of the Working Group that the current fee structure is based upon assignment only, with little to no consideration given to bandwidth or how much spectrum is used for a given assignment. The Working Group understands that frequency assignment fees are insufficient to accommodate the costs involved in maintaining the GMF and/or FSMS. NTIA should study the frequency assignment fee structure with a goal of aligning fees with costs to ensure that there is sufficient funding to properly maintain the GMF and/or FSMS.</p>			<p>it Office of Spectrum Management), Congressional action would be required to establish a new basis for setting fees. Internal modifications within the NTIA process, e.g., weighting systems based on frequency band or bandwidth would only redistribute the costs to each agency but would not change the total amount collected for spectrum management.</p> <p>NTIA will consider possible new budget initiatives concerning the data accuracy review and clean-up efforts.</p>
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